

Serial No.: 10/572,997

REMARKS

Applicants respectfully request reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is required for this Amendment as the number of independent claims has not changed, and the total number of claims is less than originally filed. Should any fee be required, the Commissioner is authorized to charge Deposit Account 19-3550 for any such fee.

Telephone Interview Summary

The undersigned thanks Examiners Bloch and Mallari. The undersigned proposed a new independent claim for review. The Examiners indicated that the new Claim would overcome the Section 101 rejection, but suggested further clarity on the use of one pulse oscillogram. Claim 35 of this Amendment represents the claim submitted for review and incorporating changes discussed. No final agreement on allowable subject matter was reached.

Amendment to the Claims

Claim 35 has been added to replaced Claim 1, which has been canceled. Claims 5, 13, 23-27, and 31 have been canceled. Dependent claims have been

Serial No.: 10/572,997

amended to provide antecedent bases, remove reference numbers, and/or change claim dependency. Support for this Amendment can be found in original Claims 1 and 5. No new matter has been added to the claims by this Amendment.

Specification and Drawing Objections

FIG. 4C has been amended to clarify the Greek symbols, and the last paragraph at page 17 has been amended to replace the arabic references to the Greek symbols with the Greek symbols shown in FIG. 4C. The Specification has also been amended to correct the typographical or translation errors noted by the Office Action. Applicant asserts all objections to the drawings and Specification are moot in view of the above Amendment.

Claim Rejections - 35 U.S.C. §112

The rejections of Claims 3-21 and 23-34 under 35 U.S.C. §112, for the reasons set forth at pages 4-5 of the Office Action, are respectfully traversed. The issues noted by the Office Action have been corrected or are moot in view of new Claim 35. Claim 17 has been amended to a method claim. Applicant believes that the above Amendment and comments overcome the rejections of Claims 3-21 and 23-34.

Claim Rejections - 35 U.S.C. §101

The rejection of Claims 1-16 and 21-34 under 35 U.S.C. §101 is believed to be moot in view of the above Amendment and the Examiners' comments during the telephone interview.

Claim Rejections - 35 U.S.C. §102

The rejection of Claims 1-5, 8-10, 17, 18, 21-23, 26-28, 30, 31, and 34 under 35 U.S.C. §102(b) as anticipated by Forstner, EP 1 258 233, is respectfully traversed.

Forstner discloses repeating blood pressure measurements to obtain a "series of consecutive results" (Par. [0013] - [0014]). The series of results are used to determine the validity of the results (Par. [0014]).

The current invention is an improvement over the inventor's earlier work in Forstner. New independent Claim 35 recites determining with a sphygmomanometer an individual pulse oscillogram and testing for the hemodynamic stability of the patient by determining and analyzing with the evaluating device at least one of a pulse period progression, a pulse amplitude progression, or a pulse shape of only the individual pulse oscillogram. The current claimed invention uses only an

Serial No.: 10/572,997

individual pulse oscillogram to make a determination of hemodynamic stability, as compared to Forstner's use of a series of consecutive blood pressure measurements.

Forstner does not disclose or suggest the claimed invention using only an individual pulse oscillogram to determine hemodynamic stability. For at least these reasons, Forstner does not anticipate Claims 1-5, 8-10, 17, 18, 21-23, 26-28, 30, 31, and 34.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 6, 7, 24, and 25 under 35 U.S.C. §103(a) as being unpatentable over Forstner, EP 1 258 233, in view of Diab, U.S. Patent 6,463,311, is respectfully traversed. Forstner is discussed above. Diab does not overcome the deficiencies of Forstner discussed above.

The rejection of Claims 11-13 and 29 under 35 U.S.C. §103(a) as being unpatentable over Forstner, EP 1 258 233, in view of Goto et al., U.S. Patent Application Publication 2003/0092999, is respectfully traversed. Forstner is discussed above. Goto et al. does not overcome the deficiencies of Forstner discussed above.

Serial No.: 10/572,997

The rejection of Claims 14-16 under 35 U.S.C. §103(a) as being unpatentable over Forstner, EP 1 258 233, in view of Goto et al., U.S. Patent Application Publication 2003/0092999, and further in view of Doten et al., U.S. Patent Application Publication 2002/0058875, is respectfully traversed. Forstner is discussed above. Goto et al. and/or Doten et al. do not overcome the deficiencies of Forstner discussed above.

The rejection of Claims 19, 20, 32, and 33 under 35 U.S.C. §103(a) as being unpatentable over Forstner, EP 1 258 233, in view of Doten et al., U.S. Patent Application Publication 2002/0058875, is respectfully traversed. Forstner is discussed above. Doten et al. does not overcome the deficiencies of Forstner discussed above.

Conclusion

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed or resolved in this response, the undersigned attorney requests a further telephone interview with the Examiner.

Serial No.: 10/572,997

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MDS', with a horizontal line extending from the end of the signature.

Mark D. Swanson
Regis. No. 48,498

Pauley Petersen & Erickson
2800 West Higgins Road
Suite 365
Hoffman Estates, Illinois 60169
(847) 490-1400
FAX (847) 490-1403